IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 100 OF 2007

IN

WRIT PETITION NO. 1422 OF 2007

WITH

LETTERS PATENT APPEAL NO. 103 OF 2007

IN

WRIT PETITION NO. 1431 OF 2007

LETTERS PATENT APPEAL NO. 100 OF 2007

IN

WRIT PETITION NO. 1422 OF 2007

Muundrao Shamrao Pawar & Anr. .. Appellants.

vs.

Ranjana Appasaheb Patil & Ors. .. Respondents.

Mr. A.A. Kumbhakoni with A. B. Borkar for appellants.

Mr. Y.S. Jahagirdar, Sr. Adv. with S.S. Patwardhan for respondents.

WITH

LETTERS PATENT APPEAL NO. 103 OF 2007

IN

WRIT PETITION NO. 1431 OF 2007

Swami Samarth Mazdoor Sahakari
Sanstha, Kolhapur. .. Appellant.

vs.

Kolhapur Zilla Sahakari Sansthanacha
Sangh Ltd., Kolhapur & Ors. .. Respondents.

Mr. P.D. Dalvi for Appellant.
Mr. Y.S. Jahagirdar, Sr. Adv. with S.S. Patwardhan for respondents.

Coram : J.N. PATEL &
A.A. SAYED, JJ.
Date: 25TH APRIL, 2007.

P.C.

. Not on Board. Mentioned and taken on board by consent of the parties.

2. Heard

3. The learned counsel for the parties have tendered minutes of the order by which the two letters patent appeals can be disposed of. It is submitted that this Court may modify the minutes appropriately which should not in any way prejudice the respective rights of the parties and dispose of the Letters Patent Appeals. We take the minutes of order on record. This

order would not only dispose of the letters patent appeals but also the writ petitions pending before the learned Single Judge. Mr. Kumbhakoni, the learned counsel appearing for the appellants in both the matters submitted that clause 3 of the minutes of the order which records "Subject to final outcome of the decision by the Deputy Registrar, the District Deputy Registrar shall hold fresh elections of Chairman and Vice Chairman". It is submitted that if such an order is passed, then, even if the persons are disqualified by the Deputy Registrar in the enquiry, they would continue to hold the office of Chairman and Vice Chairman probably for the term they are elected as the litigation is not going to end with the decision of the Deputy Registrar as the aggrieved parties are bound to prefer appeal. We may only clarify that if any party is aggrieved by the order, it has a right to prefer an appeal and the appellate authority has the discretion either to grant or refuse stay of the impugned order and also issue appropriate directions in respect of holding of election of Chairman and Vice Chairman without taking into consideration the decision of the Deputy Registrar in the matter. This is only by way of clarification that we have recorded the course which can be adopted to overcome the difficulty pointed out to us by the learned counsel for the appellants and so it does not necessarily mean that if the appeals are disposed of with the aforesaid direction it will cause prejudice to the parties.

4. Mr. Jahagirdar, the learned Senior Advocate appearing for the contesting respondents submitted that these observations of the Court should not influence the appellate authority. We do not think that we have made any observation which directly affects the merits of the matter which will be before the appellate authority as the decision by the Deputy Registrar is yet to be taken.

5. Mr. P.D. Dalvi, the learned counsel appearing for the society in Letters Patent Appeal No. 103 of 2007 and Respondent in Letters Patent Appeal No. 100 of 2007 submits that the only interest of the society is to safeguard the interest of its members and smooth functioning of the society and, therefore, in this fluid state of affairs this Court may impose additional condition on the Chairman and Vice Chairman whose eligibility to continue as members of the managing committee are in dispute should not take any major policy decision or deal with the finance of the society except for meeting the statutory dues.

6. We further clarify that no major policy decisions which include decision relating to financial matters to be undertaken by the Managing Committee till the dispute is finally settled.

7. This apprehension was expressed by the learned

counsel appearing for the society on a specific allegation that huge sums of money amounting to more than Rs. 6 lacs have been withdrawn. We appreciate the anxiety of the learned counsel appearing for the society in respect of the safety and security of the funds of the society in question. We are quite hopeful that the society would take appropriate steps and report the matter to the competent authority against these alleged and unauthorised withdrawal. With these directions and clarification, we dispose of the two writ petitions and the Letters Patent Appeals arising out of the impugned order as per the minutes of the order marked "X" for identification.

(J.N. Patel, J.)

(A.A. Sayed, J.)